

## **CHAPTER 6-02-02 AERIAL APPLICATORS**

Section	
6-02-02-01	General Provisions
6-02-02-02	Application for Aerial Applicator License - Fees
6-02-02-03	Inspection and Duration of Aerial Applicator's License
6-02-02-04	Commercial Pilot Safety Standards
6-02-02-04.1	Aerial Applicator Safety Instruction
6-02-02-05	Private Pilot Aerial Sprayer Who Obtains a Commercial Federal Aviation Administration License
6-02-02-06	Private Pilot's Safety Standards for Aerial Crop Spraying and Dusting on One's Own Property or Land Farmed Under a Bona Fide Lease
6-02-02-07	Grandfather Rights
6-02-02-08	Registration as Certified Agricultural Chemical Applicator Requirements [Repealed]
6-02-02-09	Registration and License of Aircraft and Equipment Standards
6-02-02-10	Application Knowledge and Procedures
6-02-02-11	Aerial Spraying in Vicinity of Turkey Farms
6-02-02-12	Reports Available to Aeronautics Commission
6-02-02-13	Unsettled Claims and Court Judgments
6-02-02-14	License Reciprocity Between States - Nonresidents
6-02-02-15	Shoulder Harness Must Be Installed and in Use by Pilot
6-02-02-16	Airworthiness Certificate Required
6-02-02-17	Crash Helmet Required for Safety of Pilots
6-02-02-18	Revocation of Aerial Spraying License - Refusal of License
6-02-02-19	Penalty for Violation of the Rules and Regulations

**6-02-02-01. General provisions.** The following air traffic rules, orders, regulations, procedures, knowledge of agricultural chemicals, and minimum standards governing aerial spraying, dusting, fertilizing, or insect control of crops or areas by means of aircraft or helicopter flight are necessary for the public safety, the safety of those engaged in such activities, and for protection of property, are adopted by the North Dakota aeronautics commission, after a public hearing, pursuant to authority set forth in North Dakota Century Code section 2-05-18.

**General Authority:** NDCC 2-05-18

**Law Implemented:** NDCC 2-05-18

**6-02-02-02. Application for aerial applicator license - Fees.** No person may engage in the activity or business of aerial spraying, dusting, fertilizing, or insect control of crops or areas by aircraft or helicopter without first obtaining an aerial applicator's license from the North Dakota aeronautics commission. The application for an aerial applicator's license shall include a fee of one hundred fifty dollars for a commercial aerial sprayer or fifty dollars for a private aerial sprayer and shall be filed on forms furnished by the commission and shall set forth the following information:

1. The name and address of applicant and whether applicant is a person, partnership, company, corporation, association, or organization.
2. The name and address of all persons designated to pilot all aircraft or helicopters and federal airman certificate numbers.
3. The name of the applicant's operator or chief pilot who attended the aerial applicator safety meeting in the calendar quarter preceding the date of the application or received substitute instruction provided by the commission as required in section 6-02-02-04.1.
4. The name and address of the owner of each aircraft or helicopter.
5. The make, model, and type of each aircraft or helicopter to be used together with the current number of its certificate of registration under the laws of this state.
6. The identification mark or number assigned to the aircraft or helicopter by the federal aviation administration.
7. If applicant hires any employees, the applicant's workers' compensation policy and number.

**History:** Amended effective June 1, 2002; September 1, 2005.

**General Authority:** NDCC 2-05-18

**Law Implemented:** NDCC 2-05-18

**6-02-02-03. Inspection and duration of aerial applicator's license.** North Dakota aerial applicator's license shall be presented for inspection upon request of any authorized representative of the state of North Dakota or of the federal government or municipal official charged with the duty of enforcing local, state, or federal laws or regulations. The aerial applicator's license decal shall be displayed one per airplane or helicopter on the pilot side (left) of the airplane engine cowl. Each aerial applicator's license issued shall expire December thirty-first of the year of issuance and may be revoked at any time for cause.

**General Authority:** NDCC 2-05-18

**Law Implemented:** NDCC 2-05-18

**6-02-02-04. Commercial pilot safety standards.**

1. **General.** The following rules and regulations relating to pilot experiences and skill have been adopted in the interest of the pilot and public safety and the general public interest.
2. **Chief pilot.** All operators or contractors employing one or more commercial pilots for the purpose of conducting aerial spraying, dusting, fertilizing, or insect control by aircraft or helicopter in this state

shall employ at least one chief pilot who shall have the qualifications set forth in this section.

3. **Chief pilot qualifications.** A chief pilot must produce evidence of a commercial federal aviation administration license with a minimum of seven hundred fifty flight hours as pilot in command, of which a minimum of two hundred fifty flight hours as pilot in command must be in the class of aircraft in which the sprayer or duster equipment will be installed and used for agricultural application. In addition, the chief pilot shall be one who has had at least two years apprentice commercial aerial spraying flying experience as pilot in command and who has accumulated at least two hundred hours total aerial spraying flying time as an employee, supervised by a North Dakota chief pilot, who may recommend the applicant and certify the applicant's qualifications for the operational level sought, or certified to by an affidavit of the applicant, subject to investigation by the aeronautics commission, which may approve or deny the application.
4. **Pilot employees of contractor.** An operator or aerial applicator or contractor in the business of aerial spraying that employs a chief pilot, meeting the qualifications of this section, may employ pilots for aerial spraying, dusting, fertilizing, and insecticiding, with a minimum of a valid federal aviation administration commercial license, except that a license will be revoked or denied to an operator or contractor who employs an unqualified aerial spray pilot who has been designated as unqualified to conduct aerial spraying in North Dakota, for just cause, by the aeronautics commission. Pilots supervised and employed under the supervision of the chief pilot, who have never aerial sprayed before, must be given a minimum of ten hours of simulated dual spraying time under supervision of the chief pilot before they are permitted to aerial spray as pilot in command, and in addition, must be given ten hours of direct ground-supervised solo flight at operational loads while aerial spraying. The chief pilot shall certify in writing the name of the pilot under the chief pilot's supervision who has never aerial sprayed before and the fact that the chief pilot has given such pilot at least ten hours of simulated dual spraying flight time, and in addition, given such pilot ten hours of direct ground-supervised solo flight at operational loads while aerial spraying.
5. **Chief pilot located within state of North Dakota required.** It is the responsibility of the chief pilot to determine the amount of supervision a pilot requires. The chief pilot must be familiar with the area in which the supervised pilot or pilots are flying and be able to contact each pilot daily as needed. Pilots with less than two years' experience and less than two hundred fifty hours of actual aerial application must be under the direct, personal supervision of a chief pilot and must be flying out of the same airport as the airport in which the chief pilot is operating. The chief pilot of every aerial spraying, dusting, and fertilizing operation licensed by the aeronautics commission must be located within North

Dakota during the time of actual aerial spraying, dusting, fertilizing, or insecticiding operations and the chief pilot shall be responsible for the actions of all pilots under the chief pilot's supervision.

6. **Commercial pilot operating own equipment qualifications.** A pilot with a commercial federal aviation administration license may operate one's own equipment, but not hire or supervise other pilots, for the purpose of engaging in aerial spraying, dusting, fertilizing, or insecticiding with a minimum of five hundred flight hours as pilot in command, of which a minimum of two hundred fifty flight hours as pilot in command must be in the class of aircraft in which the sprayer or duster will be installed for agricultural application, provided such pilot has had at least two years of apprentice commercial aerial spraying flight time as pilot in command and who has accumulated at least one hundred hours of aerial spraying flying time as an employee, supervised by a North Dakota chief pilot, who may recommend the applicant and certify the applicant's qualifications for the operational level sought, or certified to by an affidavit of the applicant, subject to investigation by the aeronautics commission, which may approve or deny the application.
7. **Commercial-rated pilots who graduate from an agricultural flying school.** Commercial-rated pilots who graduate from a qualified agricultural flying and ground school shall undergo the same apprentice commercial aerial spraying flight training provided for in this section for the operational level sought, except the chief pilot may issue a credit of up to fifty percent of the ten hours of simulated dual spraying time supervised by the chief pilot before such pilot is permitted to aerial spray as pilot in command, and in addition, the chief pilot may issue a credit up to fifty percent of the ten hours of direct ground-supervised solo flight at operational loads while aerial spraying.

**History:** Amended effective July 1, 1998.

**General Authority:** NDCC 2-05-18

**Law Implemented:** NDCC 2-05-18

**6-02-02-04.1. Aerial applicator safety instruction.** For the safety and protection of persons and property, each operator of a business engaged in aerial spraying must attend the annual aerial applicator safety meeting scheduled by the North Dakota aeronautics commission. A chief pilot employed by an operator may attend the meeting in place of the operator. The meeting will be held in the first calendar quarter of each year and address aviation safety, business and operation security, and chemical storage. The commission will provide substitute instruction for operators and chief pilots who for good cause are unable to attend the annual safety meeting. An application for a license for aerial spraying under section 6-02-02-02 will not be approved by the commission unless the applicant's operator or chief pilot has attended the annual safety meeting in the calendar

quarter preceding the date of the application or received substitute instruction provided by the commission.

**History:** Effective June 1, 2002.

**General Authority:** NDCC 2-05-18

**Law Implemented:** NDCC 2-05-18

**6-02-02-05. Private pilot aerial sprayer who obtains a commercial federal aviation administration license.** A private pilot who has been previously licensed for private aerial spraying by the North Dakota aeronautics commission and who has acquired two years and accumulated one hundred hours actual private aerial spraying flying time as pilot in command may be licensed as a commercial pilot operating that person's own equipment, but not hiring or supervising other commercial pilots, provided the pilot has obtained all of the following:

1. A valid commercial federal aviation administration license.
2. Five hundred hours flying experience as pilot in command, of which a minimum of two hundred fifty hours must be in the class of aircraft in which aerial spraying will be conducted or in the class of aircraft in which the sprayer or duster will be installed for agricultural application.
3. Five hours of simulated dual aerial spraying flight time from a North Dakota chief pilot who has logged a minimum of two hundred hours aerial spraying and dusting time as pilot in command. (The five hours simulated dual is in addition to the ten hours of simulated dual and ten hours of direct ground-supervised solo flight at operational loads while aerial spraying required before the private pilot was initially licensed for private aerial spraying.)

**General Authority:** NDCC 2-05-18

**Law Implemented:** NDCC 2-05-18

**6-02-02-06. Private pilot's safety standards for aerial crop spraying and dusting on one's own property or land farmed under a bona fide lease.** A private pilot with a valid federal aviation administration private pilot's rating may aerial crop spray, dust, seed, fertilize, or insecticide the pilot's own land or land farmed by the pilot under a bona fide lease, provided:

1. That the applicant submits satisfactory evidence that the applicant has a minimum of five hundred hours flying experience as pilot in command, of which a minimum of two hundred fifty flying hours must be in the class of aircraft in which the sprayer or duster will be installed for agricultural aerial application and has produced acceptable evidence of a minimum of ten hours simulated dual spraying time under the supervision of a chief pilot before such pilot is permitted to aerial spray as pilot in command, and in addition, such private pilot must obtain ten hours of direct ground-supervised solo flight at operational loads while

aerial spraying given by a chief pilot, with a commercial federal aviation administration license, who has at least two hundred hours of logged aerial spraying time as pilot in command.

2. That the applicant sets forth, in writing, upon the application the legal description of the land owned or land farmed under a bona fide lease, including range, township, section, and quarter, or parts and apportionments pertaining thereto, or both.
3. That the applicant's services are not offered to others for hire, compensation, remuneration, or trade for other services.

For the purpose of these regulations, the term bona fide lease shall be construed to mean a lease whereby the lessee has a reasonable interest in the land under lease for a period not less than the current growing, grazing, or harvesting season.

All other rules and regulations set forth in this chapter governing commercial aerial crop spraying and dusting standards, including aircraft registration, aerial applicator's license, equipment standards, chemical knowledge and procedures, registration as a certified agricultural chemical aerial applicator, and reports to the aeronautics commission shall govern the operations of all private pilots licensed by the aeronautics commission for aerial spraying, dusting, seeding, insecticiding, and fertilizing their own land or land operated under a bona fide lease.

**General Authority:** NDCC 2-05-18

**Law Implemented:** NDCC 2-05-18

**6-02-02-07. Grandfather rights.** All chief pilot ratings, commercial pilots operating their own equipment, and private pilots rated for aerial crop spraying and dusting their own property, flying ratings granted and on record in the offices of the aeronautics commission prior to the adoption of this chapter shall continue to be effective unless revoked for cause.

**General Authority:** NDCC 2-05-18

**Law Implemented:** NDCC 2-05-18

**6-02-02-08. Registration as certified agricultural chemical applicator requirements.** Repealed effective June 1, 2002.

**6-02-02-09. Registration and license of aircraft and equipment standards.**

1. **Registration.** All aircraft or helicopters operated in aerial spraying, dusting, fertilizing, and insecticiding requiring a North Dakota aerial applicator's license shall be registered with the North Dakota aeronautics commission prior to actual use of the aircraft in this state and prior to the issuance of an aerial applicator's license. Annual registration fees shall be in accordance with the schedule set forth in

North Dakota Century Code sections 2-05-11 and 2-05-18 and shall be paid in full in advance.

2. **Equipment standards.** Each aircraft spraying rig used for aerial application or dissemination of 2,4D or 2,4,5-T or other herbicides shall be satisfactorily equipped with a positive shutoff device at each discharge nozzle (manually controlled shutoff valves, spring-loaded valves, or ball checks will be acceptable), which will absolutely prevent the dissemination of material on any portion of the terrain over which flight is made other than the area being treated or sprayed. Each aircraft dusting rig shall be satisfactorily equipped with a shutoff between hopper and discharge orifice. The entire aircraft spray or dusting rig shall be in good usable condition and free from any obvious points of leakage.

**General Authority:** NDCC 2-05-18

**Law Implemented:** NDCC 2-05-18

**6-02-02-10. Application knowledge and procedures.** To protect adjacent crops and to maintain minimum aerial applicator standards for the safety of the farmer and the pilot, the following rules are established:

1. **Flagmen.** The use of flagmen is left to the discretion of the operator, owner-pilot, or chief pilot, except flagmen are required for all aerial spraying or fertilizing conducted by an employed apprentice agricultural pilot with no previous aerial spraying experience until such time as the pilot's supervisor decides that the pilot is proficient and may use an accepted method of flagging.
2. **Automatic flagman.** An automatic flagman may be used at the discretion of the operator, owner-pilot, or chief pilot, except as provided by subsection 1.
3. **Smoke generators to measure wind conditions.** Aircraft engine smoke generators may be used at the discretion of the operator, owner-pilot, or chief pilot.

**History:** Amended effective June 1, 2002.

**General Authority:** NDCC 2-05-18

**Law Implemented:** NDCC 2-05-18

**6-02-02-11. Aerial spraying in vicinity of turkey farms.** No aerial applicator shall conduct aerial spraying operations on or over farm lands adjoining or adjacent to turkey farms unless the applicator has coordinated the aerial spraying with the owner or operator of the turkey farm and with the farmer for which the aerial spraying is to be done.

**General Authority:** NDCC 2-05-18

**Law Implemented:** NDCC 2-05-18

**6-02-02-12. Reports available to aeronautics commission.** The operator, owner, manager, pilot, or supervisor in charge of the aerial application of agricultural chemicals or fertilizer shall maintain a record of each aerial application job which may be inspected by officials of the aeronautics commission on demand. Copies of such reports shall be kept by the licensee for a period of three years from the date of aerial application. Upon request, these reports shall be submitted to the aeronautics commission, provided that nonresident aerial applicators shall file copies of such reports with the aeronautics commission prior to departure from North Dakota, and such reports shall contain the following information:

1. Customer's name.
2. Mailing address.
3. Date and time of spraying or treatment.
4. Property description (location of field).
5. Crop or property treated.
6. State of crop growth.
7. Weeds, pests, or other purpose of treatment.
8. Number of acres.
9. Wind direction and velocity.
10. Temperature.
11. Brand and type of chemical or material used.
12. Solution in water, fuel oil, or other.
13. Amount active ingredient per gallon or pound.
14. Total gallons or pounds per acre [.40 hectare].
15. Remarks.

The licensee shall file with the aeronautics commission not later than December first of the year of application a summary of the total number acres treated or sprayed by category such as for weed control, insect control, fertilizer application, fungicide application, etc. Failure of any licensed aerial applicator to furnish copies of such reports upon request of the aeronautics commission, in a reasonable time, shall be grounds for suspension of an aerial applicator's state license.

**General Authority:** NDCC 2-05-18

**Law Implemented:** NDCC 2-05-18



**6-02-02-13. Unsettled claims and court judgments.** Evidence of prior unsettled claims or unsatisfied judgments for damages resulting from aerial spraying, dusting, fertilizing, or insecticiding operations may be just cause for denial of a state aerial applicator's license or revocation of an existing license, provided that the aeronautics commission may, at its discretion, require a bond or cash bond in an amount equal to the estimated claim and reasonable court costs from such applicator before a license will be issued.

**General Authority:** NDCC 2-05-18

**Law Implemented:** NDCC 2-05-18

**6-02-02-14. License reciprocity between states - Nonresidents.** License reciprocity may be granted to nonresidents who meet the aeronautical experience requirements for the operational level sought, except chemical knowledge certification of nonresident aerial applicators must be obtained in North Dakota in accordance with this chapter.

**General Authority:** NDCC 2-05-18

**Law Implemented:** NDCC 2-05-18

**6-02-02-15. Shoulder harness must be installed and in use by pilot.** A pilot shoulder harness shall be installed and maintained in each airplane utilized for aerial spraying, dusting, or fertilizing and the pilot shall wear the harness at all times while engaging in aerial spraying, dusting, or fertilizing operations.

**General Authority:** NDCC 2-05-18

**Law Implemented:** NDCC 2-05-18

**6-02-02-16. Airworthiness certificate required.** Every airplane or helicopter licensed for aerial spraying, dusting, or fertilizing operations in North Dakota shall have a current and valid federal aviation administration airworthiness certificate.

**General Authority:** NDCC 2-05-18

**Law Implemented:** NDCC 2-05-18

**6-02-02-17. Crash helmet required for safety of pilots.** Every pilot, while engaging in aerial spraying, dusting, or fertilizing operations, shall wear an approved protective crash helmet or hard hat in all aircraft, except in open cockpit type of aircraft, wherein the decision to wear or not to wear a crash helmet is optional, with the chief pilot being responsible for making the determination.

**General Authority:** NDCC 2-05-18

**Law Implemented:** NDCC 2-05-18

**6-02-02-18. Revocation of aerial spraying license - Refusal of license.** The North Dakota aeronautics commission or its duly appointed director reserves the right to revoke or refuse to issue an aerial applicator's license for just cause, or for violation of any rule, regulation, procedure, or standard set forth in this chapter

after a hearing has been held, provided that on the basis of proper cause shown, the director or the aeronautics commission may suspend a license or refuse to issue a license until such time as a hearing has been held.

**General Authority:** NDCC 2-05-18

**Law Implemented:** NDCC 2-05-18

**6-02-02-19. Penalty for violation of the rules and regulations.** Attention is drawn to North Dakota Century Code section 2-05-18, which relates to the licensing of aerial applicators of agricultural chemicals and provides that any person convicted of violating any provision of that section or rules or regulations promulgated under the authority of that section shall be guilty of a class B misdemeanor.

**General Authority:** NDCC 2-05-18

**Law Implemented:** NDCC 2-05-18